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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,992	03/02/2004	Sang Woon Suh	1740-000038/US	9678
30593	7590	04/23/2008	EXAMINER	
HARNESS, DICKY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			PSTIOS, ARISTOTELIS M	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/789,992	<b>Applicant(s)</b> SUH ET AL.
	<b>Examiner</b> Aristotelis M. Psitos	<b>Art Unit</b> 2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 January 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5,11,13,15,17-20,22,23 and 41-46 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) all is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

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**DETAILED ACTION**

Applicants' response of 1/11/08 has been considered with the following results.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1,5-11,13,15,17-20,22-24,41-46 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1,4,5,3,10,11,17,18,14,20,25,26 of copending Application No. 10/989992 in view of claim 1 10/765536.

This is a provisional obviousness-type double patenting rejection.

Claims 1,4,5,3,10,11,13,17,18,14,20,25 and 26 lack the recitation of the "along a modulated unique pattern" recitation of the pending present independent claims; nevertheless, claim 10 of that copending application recites a "physical mark" and using the specification as a dictionary, such physical mark(s) are a wobbled pit pattern, (modulated uniquely).

With respect to the encryption limitation of claims 5, 13,24,45 such is found in claim 1 of copending application 10/765536.

Obvious to further combined such a teaching for the desired encryption capability.

**Errata**

In the rejections below, the examiner gives no patentable distinction to the term "Computer readable medium" as opposed to an optical record/disc.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1,5,6,13, 20 and 42 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sako et al/ WO 02/37493 further considered with Timmermans et al.

US patent 7215610 is relied upon as the English equivalent to the WO document to Sako et al.

Sako et al disclose an apparatus for and method of recording/reproducing information from an optical record medium. The examiner interprets this medium as "computer readable".

Further attention is drawn to the discussion with respect to the example of reproducing devices, starting at col. 16 line 38 and continuing till col. 22 line 30.

As noted in col 17 (line 15 +) therein, appropriate "wobbled pit" exists in the lead-in area indicative of type of record medium. Such indication is then relied upon for reproduction/servo control.

Under 102 considerations, this meets the limitations with respect to the claim, and the examiner concludes that since the wherein clause is drawn to an intended use, such a use is present. Furthermore, the examiner interprets such "wobbled pit" as meeting the claimed "wobbled pits" (plural), because in the

Description of figure 2, the system describes the information track as comprising of "pits". Hence the examiner concludes interpreting the "wobble pit" of the above noted passages is the equivalent of the claimed "wobbled pits".

Under 103 considerations, if applicants can convince the examiner that such is not the case, then Timmermans et al is relied upon for teaching the ability of having "wobbled pits".

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It would have been obvious to modify the base system of Sako et al with the above teaching from Timmermans et al, motivation is to use more than one pit to describe an identification of an attribute for subsequent use in a reproduction system.

With respect to claims 5,13, the Sako et al system also describes – decryption/encryption – see col 18, starting at line 10.

With respect to claim 6, the Sako et al system describes copy control/management capability – see col. 18 starting at line 30.

With respect to method claim 20 such is met when the system operates.

With respect to apparatus claim 42, such is present and met.

#### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Similarly, all dependent claims as rejected below are met, and hence any arguments thereto are moot in view of the above new rejection.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to the claims as stated in paragraph 2 above, and further in view of .Kuroda ('844)

With respect to the mark/space pair, such is .taught/disclosed by Kuroda, i.e. variable lengths for the pit(s) pattern.

Use of variable length mark/space patterns permits the ability to include/encode for a variety of disc attributes and hence increases the flexibility of the reproducing system(s) by acknowledging a plurality of disc formats.

4. Claims 8,10, 15, 17,19,22, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to the claims as stated in paragraph 2 above, and further in view of Ha et al

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The ability of providing the appropriate wobbled pit(s) prior to the lead in area is considered an obvious capability in view of Ha et al – see the discussion with respect to col. 4 starting at line 35, which discloses such a relocation of the pit.

With respect to claims 10,17, and 19 such is the functioning of the base system and hence no further motivation is required.

It would have been obvious to modify the base system as stated above in paragraph 2 and further modify such with the additional teaching from HA et al, since such is considered merely an alternative location, i.e., a relocation of elements acknowledged in the prior art and no unexpected results are seen to occur from such a relocation.

5. Claims 11,18,23,24 and 44,45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims as stated in paragraphs 4, above, and further in view of Official Notice.

The particular PIC off/or BD ROMs is a well known disc format/ obvious to use the above systems as relied upon above in paragraph 4 with such disc formats. Although the claims all recite read-only, the different acronyms, BD- RO, BD-ROM, BD-RP are all equated.

With respect to claim 24, since this limitation is present in the base system - see paragraph 2, it is met and no further modification/motivation is required.

With respect to claims 45 and 46, since these limitations are present in the base system – see paragraph 2 above, it is met and no further modification/motivation is required.

#### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action

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is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-Thur: 6:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos  
Primary Examiner  
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